

RESOLUTION No. 2008-66-753

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE AND ATTEST, RESPECTIVELY, THAT CERTAIN MEMORANDUM OF UNDERSTANDING WITH THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, A COPY OF WHICH IS ATTACHED HERETO AS EXHIBIT A; PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING FOR THE ADOPTION OF REPRESENTATIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") provides law enforcement agencies with a Paperless Firearm Trace Submission System and Trace Analysis Module that is readily accessible through a connection to the Internet, and

WHEREAS, the CITY OF MIAMI GARDENS, through its Police Department, would like to participate in the E-trace Program provided by ATF, and

WHEREAS, in order to participate in the Program, the ATF requires a Memorandum of Understanding between the ATF and the CITY OF MIAMI GARDENS,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

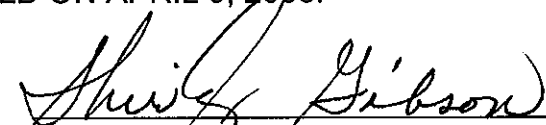
Section 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas paragraphs are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Resolution.

Section 2. AUTHORITY: The City Manager and City Clerk are hereby authorized and directed to execute and attest, respectively, that certain Memorandum of Understanding with the Bureau of Alcohol, Tobacco, Firearms and Explosives, a copy of which is attached hereto as **Exhibit A**.

Section 3. INSTRUCTIONS TO THE CITY CLERK: The City Clerk is hereby authorized to obtain three (3) fully executed copies of the subject Memorandum, with one to be maintained by the City; with one to be delivered to the Bureau of Alcohol, Tobacco, Firearms and Explosives, and with one to be directed to the Office of City Attorney.

Section 4. EFFECTIVE DATE: This Resolution shall take effect immediately upon its final passage.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON APRIL 9, 2008.

  
SHIRLEY GIBSON, MAYOR

ATTEST:

  
RONETTA TAYLOR, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.  
City Attorney

SPONSORED BY: DANNY CREW, CITY MANAGER

MOVED BY: Councilman Gilbert  
SECONDED BY: Councilman Bratton

**VOTE: 6-1**

Mayor Shirley Gibson	<u>x</u> (Yes)	___ (No)
Vice Mayor Barbara Watson	<u>x</u> (Yes)	___ (No)
Councilman Melvin L. Bratton	<u>x</u> (Yes)	___ (No)
Councilman Oliver Gilbert III	<u>x</u> (Yes)	___ (No)
Councilman Aaron Campbell	<u>x</u> (Yes)	___ (No)
Councilwoman Sharon Pritchett	___ (Yes)	<u>x</u> (No)
Councilman André Williams	<u>x</u> (Yes)	___ (No)



**BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES**



**MEMORANDUM OF UNDERSTANDING - ATTACHMENT: A  
AGENCY APPROVED USERS OF THE ETRACE APPLICATION**

**Participating Law Enforcement**

**Agency Name:**

Miami Gardens Police Department

**Agency Address:**

1020 NW 163 Drive

Miami Gardens, Florida 33169





**BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES**

**MEMORANDUM OF UNDERSTANDING - ATTACHMENT: B  
CHANGE REQUEST FOR AGENCY APPROVED ETRACE USERS**



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CHANGE REQUEST FOR AGENCY APPROVED ETRACE USERS**

**Participating Law Enforcement**

**Agency Name:** \_\_\_\_\_

**Agency Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

	<b>Designated Law Enforcement Agency Primary POC</b>	<b>Designated Law Enforcement Agency Alternate POC</b>
Name:		
Title:		
Phone #:		
Email Address:		
Signature:		
Date:		

# REQUEST FOR CHANGE OF AGENCY APPROVED eTRACE USERS

USER'S NAME	TITLE	Email ADDRESS	PHONE NUMBER	NCIC ORI #	ADD or DELETE ACCESS



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Signature:		
Date:		

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**BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES**



**BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES**

**MEMORANDUM OF UNDERSTANDING REGARDING THE  
eTRACE INTERNET BASED FIREARM TRACING APPLICATION**

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**MEMORANDUM OF UNDERSTANDING REGARDING THE  
eTRACE INTERNET BASED FIREARM TRACING APPLICATION**

**Memorandum of Understanding  
between the  
Miami Gardens Police Department  
and the  
Bureau of Alcohol, Tobacco, Firearms and Explosives**

**Article I. Purpose and Authority**

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) would like to extend their on-going commitment to the law enforcement community by providing participating agencies with a paperless firearm trace submission system and trace analysis module that is readily accessible through a connection to the World Wide Web (Internet). This application, known as eTrace, provides the necessary utilities for submitting, retrieving, storing and querying firearms trace related information relative to your jurisdiction. The firearms tracing process is a valuable service offered by ATF to the global law enforcement community. Information acquired through the firearm tracing process can be utilized to solve individual cases, to maximize the investigative information available for use in identifying potential illegal firearms traffickers, and to supplement the analysis of crime gun trends and trafficking patterns.

Law Enforcement agencies that make a commitment to comprehensive crime gun tracing will be provided with an information platform for developing the best investigative strategies for the reduction of firearms-related crime and violence. ATF has made a concerted effort to leverage existing information technology to better assist law enforcement agencies in the investigation of illicit firearms trafficking as well as the

interdiction of firearm sources to juveniles, youth offenders and other prohibited persons. This Memorandum of Understanding (MOU) is intended to formalize a partnership between the participating agencies with regard to policy and procedures relative to the access and utilization of eTrace services.

The parties enter into this MOU pursuant to 31 U.S.C. § 6305; the E-Government Act of 2002, Public Law No. 107-347; and the Government Paperwork Elimination Act of 1998 (GPEA), Public Law No. 105-277.

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## **Article II. Background**

The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is a law enforcement organization within the United States Department of Justice with unique responsibilities dedicated to reducing violent crime and protecting the public. ATF enforces the Federal laws and regulations relating to alcohol, tobacco, firearms, explosives and arson by working directly and in cooperation with others to:

- Suppress and prevent crime and violence through enforcement, regulation, and community outreach
- Support and assist federal, state, local, and international law enforcement.
- Provide innovative training programs in support of criminal and regulatory enforcement functions
- Ensure fair and proper revenue collection. Provide fair and effective industry regulation

ATF recognizes the role that firearms play in violent crimes and pursues an integrated enforcement and regulatory strategy. Investigative priorities focus on armed violent offenders and career criminals, narcotics traffickers, narco-terrorists, violent gangs, and domestic and international arms traffickers.

Sections 924(c) and (e) of Title 18 of the United States Code provide mandatory and enhanced sentencing guidelines for armed career criminals and narcotics traffickers as well as other dangerous armed criminals.

As part of ATF's unique enforcement powers the Congress of the United States has provided ATF with two federal sentencing laws that mandate minimum mandatory sentences for defendants convicted of offenses relating to the possession of a firearm in violation of the Gun Control Act of 1968. Under Title 18, United States Code, Section 924(c), defendants convicted of possessing a firearm during the commission of an offense defined as a federal crime of violence or a drug trafficking crime shall receive an additional 5 years imprisonment added to the punishment for the original offense. Under Title 18, United States Code, Section 924(e), a defendant convicted of illegally possessing a firearm in violation of Section 922 (g) who has three previous convictions for an offense defined as a violent felony or as a serious drug trafficking offense shall be imprisoned not less than 15 years.

ATF uses these statutes to target, investigate and recommend prosecution of these offenders to reduce the level of violent crime and enhance public safety. ATF also strives to increase State and local awareness of available Federal prosecution under these statutes. For more information about the use of these statutes please contact your local ATF office.

### **Article III. Scope**

The purpose of this MOU is to establish an interagency agreement governing the access and utilization of eTrace. In addition, the MOU will designate a primary and alternate point of contact within your agency. The agency point of contact will be charged with ensuring adherence to the MOU between the Bureau and the client agency users. The MOU will require the designated agency point of contact to identify individuals from their respective agency who will require system access, to periodically validate the list of users, and to notify the National Tracing Center immediately in the event that it becomes necessary to revoke or suspend a user's account.

### **Article IV. Interagency Communications**

The participating law enforcement entity and the Bureau of Alcohol, Tobacco, Firearms and Explosives agree that a principal point of contact within each organization shall coordinate all communications and tasks under this MOU. The designated points of contact (POC) shall be as follows:

ATF Field Division Name: Miami Field Division

Address: 5225 NW 87th Avenue  
Suite 300  
Miami, Florida 33178

	Designated ATF Contact	Alternate ATF Contact
Name:	James Langley	James Pherson
Title:	Special Agent	(305) 597-4892
Phone #:	(305) 597-4984	

Participating Law Enforcement Agency Name: Miami Gardens Police Department  
Agency Address: 1020 NW 163 Drive

Miami Gardens, Florida 33169

	<b>Designated Law Enforcement Agency Primary POC</b>	<b>Designated Law Enforcement Agency Alternate POC</b>
Name:		
Title:		
Phone #:		

## **Article V. Responsibilities and Procedures**

In becoming an approved user of the eTrace application, the involved parties hereby acknowledge and accept the following responsibilities and procedures:

### **A. Responsibilities of the participating Law Enforcement Agency**

The Participating Law Enforcement Agency shall:

1. Appoint a primary and alternate point of contact within your agency. The above appointed individuals will be responsible for providing and maintaining a list of all personnel within your department that will require access to eTrace.
2. The designated POC(s) within your agency will be responsible for completing "Attachment A" (Agency Approved eTrace Users) of this MOU. Any individuals within your agency who will require access to eTrace must be listed on Attachment A as agency approved users.
3. The designated POC(s) will immediately notify the ATF National Tracing Center in the event that an individual's eTrace account needs to be suspended or revoked for any number of reasons, to include (but not limited to): employee transfer, retirement, or release from employment. Initial notification for account revocation can be made by contacting the eTrace Customer Support Group @ (800) 788-7133. However, official notification to the National Tracing Center must be provided by completing Attachment B of this MOU and mailing the original copy to the NTC.
4. Once this MOU and relative attachments have been completed and signed by all involved parties, the original copies should be mailed to the ATF National Tracing Center at the following address:

Bureau of Alcohol, Tobacco, Firearms and Explosives  
National Tracing Center Division  
244 Needy Road  
Martinsburg, WV 25401  
Attn: eTrace Customer Service Group

Phone: (800) 788-7133

**B. Responsibilities of the Bureau of Alcohol, Tobacco, Firearms and Explosives:**

The appointed ATF Field Division representatives shall:

1. Coordinate all communications and tasks listed under this MOU and serve as a liaison between the participating law enforcement agency and the National Tracing Center Division.

The ATF National Tracing Center (NTC) Division shall:

1. Upon receipt of this signed MOU, initiate a phone call to the designated POC and provide detailed instructions on the process of requesting and receiving an eTrace user account.
2. Review all applications for eTrace access in a timely manner and facilitate the provisioning of accounts to include relative user identifiers and passwords. Once accounts are activated, a representative from the NTC will contact each individual user and provide them with their account information.
3. Upon receipt of a request for account revocation, the NTC will immediately deactivate the said user account.
4. Provide the participating law enforcement agency's designated POC and the responsible ATF Field Division with an annual (or upon request) listing of agency approved eTrace users for review and auditing purposes.

**Article VI. Conditions**

- Both ATF and the participating law enforcement agency acknowledge their understanding that the eTrace application is intended "FOR OFFICIAL LAW ENFORCEMENT USE ONLY". The federal government may monitor and audit usage of this system, and all persons are hereby notified that use of this system constitutes consent to such monitoring and auditing. Unauthorized attempts to upload information and/or change information on these web sites are strictly prohibited and are subject to prosecution under the Computer Fraud and Abuse Act of 1986 and Title 18 U.S.C. Sections 1001 and 1030.
- The parties acknowledge that the eTrace application will only be accessed and utilized from your official duty station and/or alternate task force locations. However, under isolated and stringent circumstances eTrace can be accessed from an alternate location, specifically in furtherance of Law Enforcement activities.
- The parties agree that premature disclosure of certain firearms trace information can

reasonably be expected to interfere with pending or prospective law enforcement proceedings. This law enforcement sensitive information includes data that can link a traced firearm to: the location of a crime; the Federal firearms licensee; retail purchaser or possessor of a traced firearm; or to firearms trafficking patterns involving a traced firearm. It is agreed that the law enforcement sensitive firearms trace information generated pursuant to this agreement shall not be disclosed to a third party without the consent of both parties of this agreement, or as required by a court of law.

- **IT IS FURTHER AGREED THAT PRIOR TO THE INITIATION OF ANY INDEPENDENT FIREARMS TRAFFICKING INVESTIGATIONS BY THE PARTICIPATING LAW ENFORCEMENT AGENCY (BASED ON FIREARM TRACING DATA OBTAINED VIA ETRACE), THE INTELLIGENCE GROUP AT THE ABOVE REFERENCED ATF FIELD DIVISION WILL BE CONTACTED. This critical step will not only allow for the further collaboration of valuable investigative information, but will also assist in ensuring the effectiveness and overall safety of investigating officers.**
- It is understood that any report or trace result generated through the use of eTrace does not constitute a fulfillment of the Interstate Nexus requirement in any Federal, State or Administrative legal process or litigation. That expert testimony or Interstate Nexus determination is made through trained experts who must be contacted at the local ATF Field Office or Field Division Directorate.
- The parties agree that a 'crime gun' is defined as "any firearm that is illegally possessed, used in a crime, or suspected by law enforcement officials of having been used in a crime".
- The parties agree that the ATF, National Tracing Center will be designated as the central recipient of all information entered into the eTrace application relative to crime gun recoveries. The participating law enforcement agency agrees to make every effort to provide complete and accurate firearm trace-related information to include: recovery location, possessor information and associated individuals. Law Enforcement agencies that make a commitment to comprehensive crime gun tracing will be provided an information platform for developing the best local investigative strategies for their community in the reduction of firearm related crime and violence.



## Article VII. Conclusion

It is the intent of the signatories that this MOU ensures coordination, cooperation and the mutual conduct of enforcement and research activities relative to the eTrace application. The result of this mutual cooperation and coordination will be the successful prosecution of illegal firearm crimes in State and Federal jurisdictions as well as the development of an accurate picture of the illegal firearms market and the inception of new strategies to effectively interrupt this market and impact the rate of firearm related violence.

This MOU is effective upon the date of the last signature by the authorized representative of the parties and shall remain in effect for an unspecified time period, wherein the authorized point of contact maintains that position within the participating agency, unless terminated earlier in writing by either party. Amendments to this MOU are effective upon the date of the last signature on the Amendment, by the authorized representative of the parties. This MOU may be amended or modified only by written agreement. Parties to this MOU may terminate their participation at any time upon written notification of their intent to withdraw to all other parties in the MOU. Termination of the MOU by either party will result in the revocation of all eTrace accounts established under this agreement.

In witness whereof, the parties have hereunto executed this MOU.

Matthew Boyd 04/18/08  
Signature Date

(Chief Law Enforcement Official)

[Signature] 5.16.08  
Signature Date

(ATF - Special Agent in Charge or designee)

Matthew Boyd  
Name

Julie Torres Joseph Anacumo  
Name

Chief of Police  
Title

Special Agent in Charge  
Title

Miami Gardens Police Department  
Agency/Department

Miami Field Division  
ATF Field Division  
City of Miami Gardens

Attest:

Ronetta Taylor  
Ronetta Taylor, CMC City Clerk

[Signature]  
Darryl O. Crew, City Manager